

110TH CONGRESS
2D SESSION

H. R. 5868

To amend title 10, United States Code, to provide for the retention of members of the Armed Forces on active service or in an active status who would otherwise be retired or separated for a combat-related disability, but who are still medically able to perform noncombat-related military occupational specialties or duties.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2008

Mr. PEARCE (for himself, Mr. KUHLMANN of New York, Mr. NUNES, and Mr. MILLER of Florida) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Caleb Martin-Travis
5 Dodson Wounded Warrior Retention Act”.

1 **SEC. 2. RETENTION OF MEMBERS OF THE ARMED FORCES**
2 **WITH COMBAT-RELATED DISABILITIES.**

3 (a) RETENTION OF MEMBERS.—Section 1209 of title
4 10, United States Code, is amended—

5 (1) by striking “Any member of the armed
6 forces” and inserting “(b) TRANSFER TO INACTIVE
7 STATUS.—Any member of the armed forces”; and

8 (2) by inserting after the section heading the
9 following new subsection:

10 “(a) RETENTION OF MEMBERS WITH COMBAT-RE-
11 LATED DISABILITIES.—(1) Notwithstanding any other
12 provision of this chapter, a member who would be retired,
13 placed on the temporary disability retired list, or sepa-
14 rated as the result of a combat-related disability may elect,
15 instead, to be retained on active service or in an active
16 status so long as the member—

17 “(A) remains medically able to perform non-
18 combat-related military occupational specialties or
19 duties, regardless of the member’s office, grade,
20 rank, or rating; and

21 “(B) is not disqualified from performing the
22 noncombat-related military occupational specialties
23 or duties because of performance, mandatory retire-
24 ment for age, or other reasons.

25 “(2) A member retained on active service or in an
26 active status pursuant to this subsection shall be subject

1 to periodic physical examinations, as provided under sec-
 2 tion 1210 of this title for members on the temporary dis-
 3 ability retired list.

4 “(3) Action under this subsection shall be taken on
 5 a fair and equitable basis, with regard being given to the
 6 probable opportunities for advancement and promotion
 7 that a member might reasonably have had if the member
 8 did not have a combat-related disability.

9 “(4) In this subsection, the term ‘combat-related dis-
 10 ability’ has the meaning given that term in section 1413a
 11 of this title, except that, for purposes of qualifying for re-
 12 tention on active service or in an active status, the dis-
 13 ability of a member does not have to be compensable under
 14 the laws administered by the Secretary of Veterans Af-
 15 fairs.”.

16 (b) CLERICAL AMENDMENTS.—

17 (1) SECTION HEADING.—The heading of section
 18 1209 of title 10, United States Code, is amended to
 19 read as follows:

20 **“§ 1209. Retention in active status or transfer to inac-**
 21 **tive status list instead of separation or**
 22 **retirement”.**

23 (2) TABLE OF SECTIONS.—The table of sections
 24 at the beginning of chapter 61 of such title is

1 amended by striking the item relating to section
2 1209 and inserting the following new item:

 “1209. Retention in active status or transfer to inactive status list instead of
 separation or retirement.”.

3 (c) EFFECTIVE DATE.—

4 (1) PROSPECTIVE APPLICATION.—Except as
5 provided in paragraph (2), subsection (a) of section
6 1209 of title 10, United States Code, as added by
7 subsection (a), shall apply to members of the Armed
8 Forces who would be retired or separated from the
9 Armed Forces after the date of the enactment of
10 this Act as the result of a combat-related disability.

11 (2) AUTHORITY TO PROVIDE RETROACTIVE AP-
12 PLICATION.—In the case of a member of the Armed
13 Forces who, during the period beginning on Sep-
14 tember 1, 2001, and ending on the date of the en-
15 actment of this Act, was retired or separated from
16 the Armed Forces as the result of a combat-related
17 disability, the Secretary of Defense may permit, on
18 a case-by-case basis, the reenlistment or reappoint-
19 ment of the member in the Armed Forces so that
20 the member may perform active service or in an ac-
21 tive status as provided by subsection (a) of section
22 1209 of title 10, United States Code, as added by
23 subsection (a).

1 (d) REPORT ON AVAILABLE MILITARY AND CIVILIAN
2 POSITIONS FOR WOUNDED WARRIORS.—Not later than
3 120 days after the date of the enactment of this Act, the
4 Secretary of Defense shall submit to Congress a report
5 describing the types and numbers of noncombat-related
6 military occupational specialties in the Armed Forces and
7 civilian employee positions in the Department of Defense
8 that are available for members of the Armed Forces who
9 would be retired or separated as the result of a combat-
10 related disability.

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